

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

YESSUH SUHYES HUSSEY,

Plaintiff,

-against-

NURSE LUBOA; DR. SCHNEIDER,

Defendants.

23-CV-4371 (LTS)

ORDER OF DISMISSAL

LAURA TAYLOR SWAIN, Chief United States District Judge:

Plaintiff, who is currently detained at the Eric M. Taylor Center on Rikers Island, brings this *pro se* action under 42 U.S.C. § 1983.<sup>1</sup> For the following reasons, the complaint is dismissed.

Plaintiff has previously submitted to this court a substantially similar complaint against Defendant Luboa, in which he asserts claims arising from the same set of facts. That case is pending under docket number 23-CV-2907 (LTS).<sup>2</sup> Because this complaint raises the same claims, no useful purpose would be served by the filing and litigation of this duplicate lawsuit. Therefore, this complaint is dismissed without prejudice to Plaintiff's pending case under docket number 23-CV-2907 (LTS).

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<sup>1</sup> Plaintiff was detained at the Anna M. Kross Center on Rikers Island at the time he filed the complaint in this action. Plaintiff originally filed this action in the United States District Court for the Eastern District of New York. *See Hussey v. Luboa*, No. 23-CV-2154 (PKC) (LB) (E.D.N.Y. May 16, 2023). This case is one of 60 cases Plaintiff filed in the Eastern District in recent months, including 43 cases filed on the same day. By order dated May 16, 2023, the Eastern District transferred this case to this court. (ECF 5.)

<sup>2</sup> By order dated July 5, 2023, the Court dismissed Plaintiff's complaint in that action, but granted him 60 days' leave to replead his claims. ECF 1:23-CV-2907, 14. Although Plaintiff included allegations against Schneider in that action, he did not name him as a defendant. In its order, the Court noted that Plaintiff alleged identical facts against Luboa and Schneider in this action, and instructed Plaintiff that, if he believes he can allege facts stating a plausible Section 1983 claim against Schneider arising from these events, he should name Schneider as a defendant and include those allegations in his amended complaint No. 23-CV-2907. *Id.* at 8.

In light of the Court's belief that Plaintiff may have submitted this duplicate complaint in error, the Court directs the Clerk of Court not to charge Plaintiff the \$350.00 filing fee for this action, and the Warden or Superintendent having custody of Plaintiff shall not deduct or encumber funds from Plaintiff's prison trust account for this lawsuit.

**CONCLUSOIN**

The Court dismisses Plaintiff's complaint as duplicative of No. 23-CV-2907 (LTS).

The Court directs the Clerk of Court not to charge Plaintiff the \$350.00 filing fee for this action.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore *in forma pauperis* status is denied for the purpose of an appeal. *See Coppedge v. United States*, 369 U.S. 438, 444-45 (1962).

The Clerk of Court is directed to enter judgment in this action.

SO ORDERED.

Dated: August 10, 2023  
New York, New York

/s/ Laura Taylor Swain

LAURA TAYLOR SWAIN  
Chief United States District Judge